



On behalf of Applied Medical, a manufacturer of medical devices located in Orange County, California, I urge the Antitrust Modernization Commission to study anticompetitive practices of dominant medical device suppliers and GPOs. Dominant suppliers, alone or in cooperation with GPOs, have implemented practices blocking progressive suppliers who seek to offer better medicine at better prices. In our case, the key dominant supplier, Johnson & Johnson, has mastered techniques lethal to free market competition, especially when combined with GPO contracts. Similarly, Tyco has implemented techniques equally damaging.

Practices of great concern include:

- Leveraging one or more monopolies to establish or protect another;
- Bundling of products through combined discounts or rebates, at the GPO, IHN/IDN and individual hospital levels;
- Bundling of products from different companies and combining rebates;
- Using high purchase requirements for hospitals to qualify for any discounts or rebates, typically set forth as a percentage of a hospital's total purchases;
- Granting a contract to only one supplier in a product category, as opposed to multiple suppliers to provide options to member hospitals;
- Lengthening contract terms, typically in excess of three years;
- Imposing fees in excess of 3% paid to GPOs, whether labeled administrative, upfront, marketing, conversion or some other type of fee;
- Private labeling of products, which is an abandonment of the intended GPO role and puts the GPO in competition with suppliers;
- Requiring suppliers to participate in a GPO's other business ventures;
- Offering payments and other enticements to hospitals and universities conditioned upon exclusive use and purchase of the dominant supplier's products; and
- Making payments and other enticements to surgeons, especially surgeons with high volume practices, conditioned upon exclusive use of the dominant supplier's products in training and the surgeon's practice.

Applied Medical urges this Commission to study these practices and take action. Without greater oversight and enforcement in this area, patients will not obtain the best healthcare at the best prices, and this nation's healthcare costs will continue to rise. Please let us know what we can do to help your efforts in this area.

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